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U.S. Department of Homeland Security
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U.S. Citizenship
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Services

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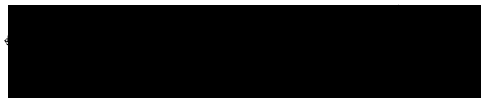


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FILE: LIN 04 140 52354 Office: NEBRASKA SERVICE CENTER

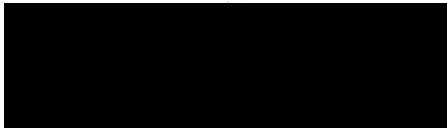
Date: SEP 21 2005

IN RE: Petitioner:
Beneficiary:



PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, Nebraska Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner seeks to classify the beneficiary pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner, a software consulting firm, seeks to employ the beneficiary as a computer application consultant. The director determined that the petitioner had failed to establish its ability to pay the beneficiary's proffered wage as required by 8 C.F.R. § 204.5(g)(2).

8 C.F.R. § 103.3(a)(1)(v) states, in pertinent part, "[a]n officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal."

On the Form I-290B Notice of Appeal, filed on February 22, 2005, counsel stated: "Accurate financial documentation concerning the sponsoring company's ability to pay the offered salary was not available when the RFE [request for evidence] was submitted. New evidence and a brief in support will be provided to the AAU¹ within 30 days." This statement forms the entirety of the petitioner's appellate submission.

To date, over six months after the filing of the appeal, careful review of the record reveals no subsequent submission. On September 6, 2005, the AAO contacted counsel to verify whether or not counsel had, in fact, submitted a brief and evidence within thirty days. On September 9, 2005, counsel affirmed that no brief or evidence had been submitted. Thus, the petitioner's entire appeal consists of the assertion that further unspecified evidence would be forthcoming (but was in fact never submitted). This cannot be considered a sufficient basis for a substantive appeal.

Inasmuch as counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the appeal must be summarily dismissed.

ORDER: The appeal is dismissed.

¹ The Administrative Appeals Office was previously named the Administrative Appeals Unit (AAU).